

**Department of the Treasury**  
**Community Development Financial Institution Fund**  
Response to Request for Public Comment  
By John H. Brown

These comments are in response to the need for technical corrections and substantive revisions to the CDFI Fund authorizing statute.

The CDFI Fund was created by the Riegle Community Development and Regulatory Improvement Act of 1994 for the purpose of promoting economic revitalization and community development through investment in and assistance to community development financial institutions to provide credit, capital, and financial services to underserved populations and communities in the United States of America. The Fund's mission is to expand the capacity of financial institutions to provide credit, capital, and financial services in the United States. The Fund achieves its purpose by promoting access to capital and local economic growth in a variety of ways including grants, loans, direct investment, and technical assistance.

Below are my comments:

**Community Development Advisory Board**

The statute that authorized the CDFI Fund established the Community Development Advisory Board which consists of 15 members, nine of whom are private citizens appointed by the President. The roll of the advisory Board is to advise the CDFI Fund director on the policies of the CDFI Fund (12 U.S.C.4703 (d)).

**Question (a): Is the current composition of the Advisory Board adequate to represent the needs of CDFI Fund?**

Comment: In my opinion, the current composition of the Advisory Board is not adequate to represent the current or future needs of the CDFI Fund.

Missing from the Advisory Board is investment banking, corporate finance, capital markets access, standardized regulatory compliance, and product distribution expertise to support capital accumulation. The specific expertise needed for CDFI Fund growth and sustainability is highly specialized and not included in the skill set of non profit community development professionals alone. There are only a few professionals in the financial industry with the required financial expertise to represent CDFIs. These professionals should be sought after and made a part of the Advisory Board.

**Question (b): Are there regulatory or government agencies that should be on the Advisory Board?**

Comment: Yes. there are other agencies that must be considered and asked to participate on the Advisory Board if sustainability and growth are to be achieved by CDFIs. I suggest considering the Economic Development Agency (EDA) the Federal Home Loan Bank (FHLB), the Federal Reserve Bank (FRB), THE Federal Farm Credit Bank Funding Corporation (FFCB), Farmer Mac and the Farm Credit Administration (FCA; in order for the needs of the CDFI Fund to be met, the inclusion of the financial industry and credit

community at this level must be represented on the CDFI Fund Advisory Board.

**Question (c): Is the current national geographic representation and racial ethnic and gender diversity requirement for the Advisory Board membership adequate?**

Comment: The current national geographic representation and racial ethnic and gender diversity requirements for the Advisory Board membership is INADEQUATE! It is inadequate because it puts this requirement ahead of the performing needs of the CDFI Fund to achieve and expand its mission. I suggest the CDFI Fund accept a policy of attracting the best qualified Advisory Board under criteria that includes community and economic development work; however, because CDFI Fund is a financial industry participant, strong emphasis must be placed on the specific financial credentials and education of advisors. Board members, geographic representation, racial, ethnic and gender representation are very important, but not at the expense of CDFI s under performing or of not getting favorable recognition in the financial industry.

**Question (d): Should there be term limits for the private citizens appointed to the Advisory Board?**

Comment: Yes. There should be term limits for the private citizens appointed to the Advisory Board. I suggest Advisory Board members be allowed to serve for two (2) terms. Also, I suggest a term be defined as two (2) years.

**Question (e): Should there be baseline requirements related to the knowledge private citizens appointed to the Advisory Board have about CDFIs and/or community development finance?**

Comment: Baseline requirements related to the knowledge private citizens appointed to the Advisory Board have about CDFI and/or community development finance is an absolute must. Additionally, Advisory Board members should be required to have baseline knowledge of the financial industry and the applicable regulatory agencies that regulate the financial industry.

**Question (f): Is the requirement to meet annually sufficient?**

Comment: Requiring the Advisory Board to meet annually is insufficient. To move towards growth and sustainability of the CDFI Fund, I would suggest moving to a quarterly or semi-annual meeting mandate with a defined aggregate capital growth target for CDFIs in the United States of America.

**Question (3): Currently the statute requires that two individuals who are officers of national consumer or public interest organizations (12U.S.C. 4703 (d) (2) (G) (iii) be on the advisory board. Should this requirement**

**be more specific regarding what types of organizations fulfill the requirement?**

Comment: Yes. Specifically, public interest is best served in the presence of quality compliance and regulatory oversight of financial industry public and private participants. Also, consumer interest is best served when consumers are well educated about the financial industry, its services, and products.

A. Community Development Financial Institutions (CDFI) awards definitions:

(a): No Comment.

(b): No comment

(c): No comment

(d): The Federal Housing Finance Agency (FHFA) has issued its final rule regarding CDFI eligibility for membership in the Federal Home Loan Bank system. In its final rule, the FHFA provided several financial definitions (e.g. net assets ratio, operating liquidity ratio, gross revenues, operating expenses, restricted assets, unrestricted cash and cash equivalents).

**Question: Should the CDFI Fund adopt any or all of these definitions?**

Comment: The CDFI Fund should adopt all of these definitions. The CDFI Fund should set the standard for underwriting consistency within the CDFI sector of the financial industry. A standardized underwriting criteria is an absolute must to attract capital for growth and expansion.

**Question (E): Should the CDFI Fund align its definitions for consistency across all CDFI Fund programs?**

Comment: Yes. CDFI Fund must do so for the same reasons stated above.

**CERTIFICATION**

The CDFI Fund authorizing statute defines a Community Development Financial Institution as an entity that: (1) has a primary mission of promoting community development; (2) serves an investment area or targeted population; (3) provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate; (4) maintains through representation on its governing board or otherwise accountability to residents of its investment area or targeted population; and (5) is not an agency or instrumentality of the United States or of any state or political subdivision of a state (12 U.S.C. 4702 (5)). Also, see 12 C.F.R. parts 1805,201.

The CDFI Fund invites and encourages comments and suggestions to the criteria and purpose of CDFI certification. The Fund is particularly interested in comments regarding:

**Question (a): Is the criteria established for CDFI certification adequate to ensure that only highly qualified CDFIs obtain the certification?**

**Should the CDFI Fund seek to only certify highly qualified CDFIs?**

Comment: The current criteria for CDFI certification does not ensure that only highly qualified CDFIs obtain the certification. The CDFI Fund should seek to only certify highly-qualified CDFIs. The CDFI Fund could develop a program that leads to full certification of CDFI applicants that do not meet the certification standard. Such an applicant could be required to meet an initial requirement to have qualified professional financial and community development professionals in place as operators and board members. Upon acceptance into a CDFI training program that results in certification when the CDFI certification criteria is met and deemed compliant.

**Question (b): Are there types of CDFIs that are prohibited from certification because of the criteria, if so, what changes are needed?**

Comment: Community Economic Development Entities (CEDEs) are not certified CDFIs. I suggest that CEDEs now operating under 12 C.F.R. part 24 and serving national banks regulated by the Office of the Comptroller of the Currency (OCC) become automatically recognized as a special class or type of CDFI.

**Question (c): Should the CDFI Fund more closely align its certification with the rule requiring a CDFI to submit with its application an independent audit conducted within the prior year, more recent quarterly statements (if applicable) and financial statements for two years prior to the audited statement?**

Comment: Yes. To become fully certified as a CDFI, the requirement to be transparent with a standard FHFA rule, close alignment is necessary. Doing so will stabilize the CDFI operating and reporting process and cause the CDFI industry to become more in line with the capital markets over time. Again, it is important to include CEDEs now operating under 12 C.F.R. part 24 and serving national banks regulated by OCC as a special class of CDFIs where the CEDEs meet the FHFA certification requirement.

**(d): Should CDFIs be certified on a regular basis and if so, how often?**

Comment: No. CDFIs need not be re-certified. CDFIs should only be required to maintain the FHFA reporting requirement and should remain certified so long as those standards are met and maintained.

**(e): Presently, the CDFI Fund only requires a CDFI to notify it of material events when applying for an award. Should such notification be required from all certified CDFIs on a regular basis.**

Comment: Material events should be required to be reported quarterly. They should be a part of the FHFA reporting requirement. The CDFI Fund should be the primary recipient of the distribution of the CDFI's reporting requirement.

## **FINANCIAL ASSISTANCE**

**Question (e): Should a category be created specifically for CDFIs that serve a national market or are intermediaries? If so, what proportion of the appropriation should be allocated for such applicants?**

Comment: Yes. A special category should be created specifically for CDFIs that serve a national market or are intermediaries. This special category should target 12 C.F.R. part 24, and serve those national banks regulated by the Office of the Comptroller of the Currency. CEDEs should become a special category of CDFIs and be allocated fifty percent (50%) of the CDFI Fund appropriation. The CDFI Fund should also seek to permit the Office of Thrift Supervision (OTS) supervised thrifts to qualify for Community Re-investment Act credit (CRA) for investing in 12 C.F.R. part 24 CEDE's.

**Question: (f)** No comment

**Question (g): Should the CDFI Fund provide a technical assistance award to an organization i.e.; a Community Development Corporation that proposes to create a new CDFI even if that organization is not a CDFI itself?**

Comment: Yes. The CDFI Fund should provide a technical assistance award to an organization that is a CEDE or CDE serving national banks operating under the authority of 12 C.F.R. part 24 and regulated by the Office of the Comptroller of the Currency or the Office of Thrift Supervision. (OTS).

**Question (h): Should CDFIs be required to provide financial education to their customers, if so, should this be a minimum level of education?**

Comment (h): Yes. CDFIs should be required to provide financial education to their customers. The financial education provided should minimally cover all of the basics of personal money management including credit and savings and investment.

### **AWARD CAP**

The CDFI Fund's authorizing statute states that except for technical assistance, the CDFI Fund cannot provide more than \$5 million of assistance in total during any three year period to a single CDFI, its subsidiaries and affiliates (12 C.F.R. 4707 (d)). An exception is allowed for up to an additional \$3.75 million during the three year period for a CDFI proposing to establish a subsidiary or affiliate for the purpose of serving an investment area or targeted population outside a state or metropolitan area presently served by the CDFI. The CDFI Fund seeks comments regarding whether awards should have a cap.

**Question (a): Should CDFI Fund award amounts have a cap or should award amounts be based on merit and availability?**

Comment: CDFI award amounts should have a cap. The current cap is adequate. The CDFI Fund should strive to make awards to many more

CDFIs including CEDEs operating under 12 C.F.R. part 24 and serving national banks and regulated by the OCC and include thrifts that are regulated by OTS.

**Question (b): Should subsidiaries and affiliates have a funding cap that is separate from, their parent CDFI?**

Comment: Only where CEDEs operating under the authority of 12 C.F.R. part 24 serving national banks under the regulation of OCC and where OTS chooses to adopt 12 C.F.R. part 24 to permit thrifts to participate as CDFIs.

**Question (c): Should the CDFI Fund make an award to only one affiliated organization during the same funding round?**

Comment: The CDFI Fund should make an award to only one affiliated organization during the same funding round.

**Question (d): Is \$5 million of assistance in total “during any three year period” too restricted?**

Comment: No. \$5 million of assistance in total during any three year period is not too restricted. The \$5 million assistance award is adequate. The CDFI Fund should focus on making additional awards to more qualified applicants. I suggest including CEDEs under 12 C.F. R. part 24, serving national banks under the Office of the Comptroller of the Currency as a special class or type

of CDFI and make possible the use of this authority to thrifts regulated by the Office of Thrift Supervision (OTS).

## **MATCHING FUNDS REQUIREMENTS**

The CDFI Fund authorizing statute requires that financial assistance awards must be matched with funds from sources other than the federal government on the basis of not less than one dollar for each dollar provided by the CDFI Fund. It further states that the matching funds “shall be at least comparable in form and value to assistance provide by the CDFI Fund” (12 U.S.C. 4707 (e)). Assistance cannot be provided until the CDFI Fund has secured firm commitments for the matching funds. The CDFI Fund encourages comments and suggestions germane to match requirements established in the statute.

### **Question (a): Does the dollar-for-dollar matching funds requirement restrict a CDFI’s ability to apply for a financial assistance award?**

Comment: Requiring a dollar-for-dollar match restricts the ability of CDFIs to apply for a financial assistance award. This is adequate and appropriate and should continue. The award should act as an incentive to create, sustain, and grow the economy independent of an award. CDFIs must be capable of matching CDFI Fund assistance. This requirement must be linked to CDFI certification.

**Question (b): Should the matching funds continue to be restricted to comparable form and value or should any type and source of funding be allowed as matching funds?**

Comment: Matching funds should continue to be restricted to comparable form and value.

**Question (c): The statute provides certain exceptions to the matching funds requirement and provides the CDFI Fund the flexibility to reduce the match requirement by 50 percent in certain circumstances, is this appropriate?**

Comment: Yes. In certain circumstances exceptions to the matching fund requirement is appropriate. These exceptions should be made a part of a special discretionary authority that authorizes the Director to fund directly, out of the Directors discretionary fund; the exception, so long as other criteria for CDFI certification is met. The Director should have a discretionary fund that is authorized under separate authority for the enhancement of the CDFI Fund's ability to respond to special situations that in the Directors opinion are viable and will most likely benefit the overall mission of the CDFI Fund.

**Question (d): The statute allows the applicant to provide matching funds in a different form if the applicant has total assets of less than \$100,000; serves non metropolitan or rural areas; and is not requesting more than \$25,000 in assistance. Should this provision apply to all**

**applicants? Should the asset size and assistance request be increased?**

Comment: Yes. This provision should apply to all applicants. No. the asset size and assistance request should not be increased.

## **CDFI TRAINING**

The CDFI Fund authorizing statute gives the CDFI Fund the authority to create a training program to increase the capacity and expertise of CDFIs and other members of the financial services industry to undertake community development finance activities (12 U.S.C. 4708). In August 2009, the CDFI Fund announced a new capacity building initiative to greatly expand technical assistance and training opportunities for CDFIs nationwide.

**Question (a): Will the capacity building initiative, as currently structured provide the training that CDFIs need to deliver financial products and services to underserved communities nationwide?**

Comment: Capacity building must include developing a standardized underwriting model that will serve the CDFI Industry by providing transparency that is acceptable to the larger emerging growth financial market. This type of capacity building will enhance the CDFI industry's ability to attract capital and serve to enhance liquidity. Also, the CEDEs operating under 12 C.F.R. part 24 and serving national banks regulated by OCC should

be included as a special class of CDFIs that have the potential to serve underserved communities nationwide

**Question (b); The first training products that will be offered by the capacity building initiative will include affordable housing and business lending, portfolio management, risk assessment, foreclosure prevention, training in CDFI business processes, and assistance with liquidity and capitalization challenges.. What other topics should this initiative provide in the future?**

Comment: All of the capacity building initiative training should be focused toward achieving the goal of standardization and transparency in financial reporting, underwriting, and best operating practices. Financial standards, relative to reporting, and underwriting will enhance the CDFI industry's access to the capital markets and enhance CDFI liquidity.

## **CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY**

The CDFI Fund authorizing statute created a Liquidity Enhancement (LE) Program (U.S.C. 14712) that has never received an appropriation. In general, the statute authorized the CDFI Fund to provide assistance for the purpose of providing capital to organizations to purchase loans or otherwise enhance the liquidity of CDFIs if the primary purpose of the organization is to

promote community development. Funds should be appropriated to this program to enhance CDFI liquidity:

1. Any assistance provided by the CDFI Fund should require matching funds on the basis of not less than dollar-for-dollar and would need to be comparable in form and value to the assistance provided by the CDFI Fund;
2. Organizations receiving LE program assistance would not be able to receive other financial or technical assistance from the CDFI Fund.
  - a. Awards should not be made for more than \$5 million to an organization or its subsidiaries or affiliates during any three year period, and
3. Certain compliance information would be required.

**Question (a): Do CDFIs have liquidity need?**

Comment: Yes. CDFIs have liquidity need. Absent liquidity, CDFIs immediately become part of the problem they are attempting to solve. Absent liquidity, CDFIs become a member of the underserved community needing help.

**Question (b): Would the LE program as structured help address CDFI's liquidity needs?**

Comment: Yes. The LE program as structured offers limited help. Limited help is better than no help. The current LE program structure should be

improved and include national banks and CEDEs operating under 12 C.F.R. part 24 and regulated by OCC.

**Question (c): Should the restrictions related to the award cap and/or matching funds be removed as a means to create larger impacts?**

Comment: The award cap should be modified to create a greater impact.

The matching fund requirement should remain in effect.

**Question (d): What changes are needed to make this a viable initiative?**

Comment: Under the existing LE authority, implement a “Pilot Project Creating Access to Capital for America’s Small Business in Urban and Rural Communities”. The LE project should be implemented as a special class of CDFIs called CEDEs under 12 C.F.R. part 24 serving national banks regulated by OCC, and Thrifts regulated by OTS should be encouraged to participate.

**Question (e): Are there other program ideas better suited to providing liquidity for CDFIs?**

Comment: I suggest liquidity enhancement of the CDFI industry become the primary focus of the Director’s Office. The Director should be given the primary responsibility to select a pilot LE project and see that the pilot LE project is implemented. As a part of the “Liquidity Enhancement Program Authorization”, the Director should have full discretion to implement a Liquidity Enhancement program.

## **BANK ENTERPRISE AWARD (BEA)**

The purpose of BEA is to provide an incentive for insured depository institutions to increase their activities in distressed communities and provide financial assistance to CDFIs.

**Question (1): Are the qualified activity definitions used for BEA still applicable? Are there any new definitions that should be included?**

Comment: BEA qualified activity definition should include national banks regulated by OCC and operating CEDEs either as subsidiaries or affiliates and participate in a CDFI pilot LE project/program.

**Question (2): An insured depository institution may apply for BEA awards based on its activities during an assessment period which opens the program to all FDIC insured banks and thrifts. The statute that authorized BEA (ie. US.C. 1834A (j) (3) states that an insured depository institution is defined by section 3(c) (2) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (c)2), which does not include credit unions whose deposits are insured by the National Credit Union Administration.**

**Currently, credit unions can only be qualified recipients of loans and deposits from BEA applicants (“CDFI partners”). Should only banks**

**and Thrifts certified by CDFI Funds be eligible to apply for BEA?**

**Should these applicants of a certain asset class (e.g. “small” banks with less than \$1,098 billion in assets) be permitted to apply for BEA?**

**Should there be a minimum funding goal for awards?**

Comment: First, in regard to credit unions, credit unions are not banks. Yet, they serve a community useful function for their members by facilitating access to banking services and products. Credit unions should remain in their current role as “CDFI partners”. Only banks and Thrifts certified by the CDFI Fund should be eligible to apply for BEA. Banks with less than \$1,098 billion in assets should not be permitted to apply for BEA. National banks regulated by OCC and operating under the authority of 12 C.F.R. part 24 should be encouraged to participate in the CDFI Bank Enterprise Awards. This should be accomplished by recognizing CEDEs operating under 12 C.F.R. part 24 as a special class of CDFIs.

Second, the geographic requirement should be eliminated and national banks should be encouraged to participate. Also, in today’s economy, the old definition of distressed community is not adequate to identify the expanded distress areas in America’s communities.

Third, Community Reinvestment Act (“CRA”) rating should be used by the CDFI Fund in its evaluation of a depository institutions’ commitment to serving low income and underserved communities. CRA credit should be given to

those national banks and Thrifts operating under 12 C.F.R part 24 and regulated by OCC or OTS that make investment in CEDEs that qualify as a special class of CDFIs.

This concludes my comments.

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